



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,485	11/27/2001	Alexey G. Ryazanov	601-I-078DIV	1500

7590

08/16/2002

David A. Jackson, Esq.
KLAUBER & JACKSON
411 Hackensack Avenue
Hackensack, NJ 07601

EXAMINER

MOORE, WILLIAM W

ART UNIT

PAPER NUMBER

1652

DATE MAILED: 08/16/2002

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/994,485

Applicant(s)

RYAZANOV ET AL.

Examiner

William W. Moore

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 50-59 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 50-59 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Preliminary Amendments

Applicant's Preliminary Amendments A and B, Papers Nos. 5 and 6, both filed with the specification on November 27, 2001, were entered. The former amends page 1 of the specification by inserting before the first line a statement of continuing data and a claim to priority to the parent application while the latter instructs the deletion of claims "1-49" and the entry of new claims "50-58". The originally-presented claims numbered fifty, however, because Applicant had erroneously provided two claims numbered 31. Thus these original claims were renumbered, pursuant to 37 CFR 1.126, as claims 1-50 and the claims submitted with Amendment B were numbered as claims 51-59. When the original, renumbered, claims 1-49 were canceled, claims 50-59 remain, where claim 50, originally miss-numbered as claim 49 describes a subject matter that differs from the new claims 51-59, requiring the following requirement for restriction.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

- I. Claim 50, drawn to a method for creating a cell line exhibiting a reduced expression of an eukaryotic elongation factor-2 kinase, classified in class 435, subclass 252.3.
- II. Claims 51-59, drawn to antibodies capable of recognizing an eukaryotic elongation factor-2 kinase, classified in class 530, subclass 387.1.

Inventions of Group I and Group II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

A telephone call was made to Mr. David A. Jackson on August 14, 2002, to request an oral election to the above restriction requirement, but did not result in an election being

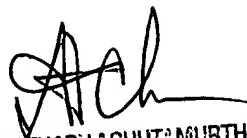
Art Unit: 1652

made. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Conclusion

5 Any inquiry concerning this communication or earlier communications from the
examiner should be directed to William W. Moore whose telephone number is
703.308.0583. The examiner can normally be reached between 7:00AM-5:30PM EST
on Mondays and Wednesdays, between 7:00AM-1:30PM EST on Tuesdays and
10 Thursdays, and between 8:30AM and 5:00PM EST on Fridays. The examiner's direct
FAX telephone number is 703.746.3169. If attempts to reach the examiner by
telephone are unsuccessful, the examiner's supervisor, Ponnathapura Achutamurthy can be
reached at 703.308.3804. Further fax phone numbers for the organization where this
application or proceeding is assigned are 703.308.4242 for regular communications and
15 703.308.0294 for After Final communications. Any inquiry of a general nature or
relating to the status of this application or proceeding should be directed to the
receptionist whose telephone number is 703.308.0196.

20 William W. Moore
August 14, 2002


PONNATHAPURA ACHUTAMURTHY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600